

MOTION SEEKING PERMISSION

1. HIGH DESERT STATE PRISON

2. PO BOX 650

3. INDIAN SPRINGS, NV. 89070

4. JOSEPH MIZZONE #68549

5.

6. IN THE UNITED STATES DISTRICT COURT
7. FOR THE DISTRICT OF NEVADA.

8.

9. JOSEPH MIZZONE

3

10. Plaintiff

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11.

12. VS

13.

14. ██████████ BACA et al

3

15. Defendants

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16.

17.

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19.

20. COMES NOW, Plaintiff Joseph Mizzone #68549 PRO-SE and
21. Respectfully ask the Court to "MOTION SEEKING PERMISSION"
22. above § 1983 CIVIL RIGHTS COMPLAINT PURSUANT TO 42 USC § 1983.

23.

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| | |
|---------------------------|-----------|
| FILED | RECEIVED |
| ENTERED | SERVED ON |
| COUNSEL/PARTIES OF RECORD | |
| APR 18 2013 | |
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| DISTRICT OF NEVADA | |
| BY: <i>FB</i> | DEPUTY |

CASE# 3:15-cv-00499-MMD-WGC

MOTION SEEKING PERMISSION TO
ADDRESS PLAINTIFFS FIRST AMENDED
COMPLAINT UNDER "NEW DISCOVERY"
"EVIDENCE", AND ADD DEFENDANT
NOOC OFFICER JOHN HILL-SENIOR CO.
AND 5-28-15 PRELIMINARY HEARING
OFFICER

See; JOSEPH MIZZONE VS. WARDEN MR MCNAMEE, CASE# HG-0806011,
DEPT.1, "ORDER GRANTING IN PART AND DENYING IN PART PETITION
FOR WRIT OF HABEAS CORPUS" (PAGE 4 LINE 21 TO PAGE 5 LINE 1-12)
dated the 24th day of September, 2008.

STATEMENT OF FACTS IN SUPPORT I

1. (1) I am the Plaintiff Joseph Mizrahi #68549 PRO-SE
2. and am requesting to file a "MOTION SEEKING PERMISSION".
3. See; Haines v. Kerner, 404 US 519, (1972) (Allegations of a pro-se
4. Complaint are held to less stringent standards than formal pleadings
5. drafted by lawyers.
6.
7. (FACT 1.) Plaintiff filed his § 1983 on the 10th day of September, 2015.
8.
9. (FACT 2.) Plaintiff filed a MOTION SEEKING PERMISSION TO RECEIVE
10. EMERGENCY INJUNCTION FOR RELIEF UNDER FRPC 60(b) AND
11. JUDICIAL NOTICE on the 21st day of February, 2016
12.
13. (FACT 3) Plaintiff received a SCREENING ORDER on the 18th day of
14. March, 2016, and was ordered to do the following (1) TO Proceed the
15. 14th Amendment due process claim against defendant Breman. (2) Leave to
16. Amend on defendants C. Smith, Cox, WALSH, McDANIEL, AND BACA.
17.
18. (FACT 4) Plaintiff did Amend his Complaint against defendants C. SMITH, COX,
19. WALSH, McDANIEL AND BACA, on the 1st day of March, 2016 give or
20. take in the 30 day time limit Ordered by Court.
21.
22. (FACT 5.) Plaintiff just received some discovery evidence of officers reports,
23. witnesses, and disciplinary reports in CASE # 3:15-cv-00313-MMD-VPC
24. on a Motion called "DEFENDANTS OPPOSITION TO PLAINTIFF'S "MOTION
25. SEEKING PERMISSION TO RECEIVE EMERGENCY INJUNCTIVE RELIEF
26. FOR NECK INJURY BY DEFENDANTS AND ADD DEFENDANTS FOR
27. NON-MEDICAL TREATMENT" dated the 6th day of April, 2016. And on
28. this motion plaintiff discovered

STATEMENT OF FACTS IN SUPPORT I

1. that Senior NOOC OFFICER JOHN HILL was a big part of the
 2. 3-28-15 Insult from start to finish on Defendant's MEZZONE 313:
 3. DEF EXH-A-003 Page 3 of 10 Report Detail and contained to DBF
 4. EXIT A-004 Page 4 of 10. Mr John Hill was Plaintiff's Preliminary
 5. Hearing Officer and had first hand knowledge and was not impartial
 6. to Plaintiff's disciplinary process of (NOOC) AR 707. On the Defendants
 7. MEZZONE 313; DEF EXH-A-003 it states: Staff Name HILL JOHN
 8. responding Officer, Reports, Report Type ^(PARTICIPATION) INC028, REPORT Detail - On
 9. Saturday March 28, 2015, I Senior Officer J. Hill while ~~was~~ assigned
 10. to Search and Escort at Northern Nevada Correctional Center did provide
 11. assistance in unit four to secure cell doors at close of tier time. At
 12. approximately 2045 hrs or 845AM Officers Allison, Arding, S. Smith
 13. did arrive in the unit 4. Shortly there after a radio transmission from
 14. Unit 5 caused officer Allison to suggest a response to Unit 5.
 15. Seconds later additional radio transmissions requested "BACK UP" to unit 5.
 16. Myself and the three other officers departed Unit 4 enroute to Unit 5.
 17. Upon arrival Officers Allison, Arding, S. Smith, provided assistance to
 18. Officer C. Smith while I began to disperse inmates from the immediate
 19. area, clearing the rotunda and securing inmates in their cells. As additional
 20. staff members arrived. The area was secured. I then observed the escort
 21. of inmate Mizoni # 68549, from Unit 5 to unit 8 for medical evaluation.
 22. Also Mr John Hill, plaintiff believes by his disorientation that Mr Hill
 23. is who put plaintiff in a choke hold to start the dragging plaintiff backwards
 24. from Unit 5 to Unit 8. There's a Stationary Camera in front of Unit 5 where he
 25. or his partners did this. Also Camera stationary on each side of Unit 5 wings
 26. A and C outside, also outside Unit 4 same and Unit 8 outside and inside to
 27. prove this in which plaintiff was denied at his Disciplinary Hearing on ~~5-17-15~~
 28. 5-17-15.

STATEMENT OF FACTS IN SUPPORT I

1. Mr John Hill is not impartial and has First hand knowledge of the
 2. 3-28-15 Disciplinary Report, ~~DTSCIPLE~~ DISCIPLINARY FORM P NOTICE OF
 3. CHARGES Page 1 of 1 date 4-4-15 Time of Service 0127 Printed name
 4. of hearing Officer J. Hill and signed and signature of Remote, I Signed.
 5. Also see; State of Nevada Department of Corrections DISCIPLINARY FORM II
 6. SUMMARY OF HEARING OFFICERS INQUIRY AND DISPOSITION Page
 7. 1 of 2 Name of Hearing Officer Hill, John Date 4-4-15 at time of
 8. 0.127 am Unit 7-B-62A and see; Page 2 of 2 Name of Hearing Officer
 9. Hill, John Date 4-4-15 Time: 01.27 AM Signature J. Hill myself
 10. Signed below his name. See; AR 707 Page 3 of 38 DISCIPLINARY PROCESS-
 11. This term is intended to describe the collective steps necessary to resolve a
 12. violation, including the service of the "Notice of Charges" the Preliminary Hearing
 13. Officers Inquiry and Disposition", the Disciplinary Hearing", the "Appeal" (if any)
 14. and any incidental task such as referrals for sentence credit forfeiture and
 15. Parole revocation. See; AR 707 Page 4 of 38 PRELIMINARY HEARING
 16. OFFICER- An impartial Correctional employee who presents the written Notice
 17. of charges to the accused inmate and advises the inmate of the
 18. procedures applicable under the Code. See; AR 707 Page 4 of 38
 19. 707.01 DEPARTMENT POLICY 1.3 Disciplen should be applied in an
 20. impartial and consistent manner. See; AR 707 Page 5 of 38 1.9 • At least
 21. 24 hours prior to any formal hearing before an impartial Disciplinary Hearing
 22. Officer a Notice of Charges will be served. See; AR 707.02 DISCIPLINARY
 23. PROCESS STRUCTURE 1.1 Pages 5 of 38 to 6 of 38. See; AR 707.04
 24. INMATE DISCIPLINARY PROCESS 1.1 to 1.1.3 Page 6 of 38 to 1.1.8.3 Page 8
 25. of 38. All Supervisors should be impartial in that he did not witness or
 26. investigate the alleged violation. • Were not a victim of the alleged violation.
 27. • Did not participate in the writing of the Notice of Charges. Did not sit as
 28. a

STATEMENT OF FACTS IN SUPPORT [REDACTED]

1. member of the Classification Committee, which authorized pre-disciplinary
 2. segregation for the same offense. • Were not the Preliminary Hearing
 3. Officer for the same offense. Finally See AR 707 Page 8 of 38 to Page
 4. 9 of 38, 1.2.1.1 As soon as practicable after receipt, an Impartial [REDACTED]
 5. Preliminary Hearing Officer Shall review the description of the incident and the
 6. violations, which are charged. See; AR 707 Page 10 of 38 to Page 12 of 38.
 7. Add Defendant John Hill (NDA) CAUSE OF ACTION. VIOLATION OF 8th and 14th Amend to USCA.

8. Plaintiff has shown that the Preliminary Hearing officer should be
 9. a defendant for his first hand knowledge, participation on Incident 3-28-15
 10. and his participation of being the Preliminary hearing Officer shows he was
 11. not impartial to Plaintiffs disciplinary hearing process and at this time
 12. Plaintiff Respectfully under new evidence as of date of April 6, 2016
 13. as said in this motion that Mr Hill was in fact from start to
 14. finish a big part of plaintiffs disciplinary and sanctions to follow. He
 15. Violated Plaintiffs 14th Amendment to the USCA due process by "not"
 16. being parcial to Plaintiffs Disciplinary Process per AR 707 (NDA) Disciplinary
 17. process for Inmates and conspired to punish plaintiff to cruel and
 18. unusual punishment under the 8th Amendment to the USCA by participating
 19. in the 3-28-15 Incident from start to finish and he admits it. And
 20. he had first hand knowledge of the Disciplinary Report with C. Smith
 21. the reporting officer and participated in that and allowed plaintiff
 22. to be sanctioned knowing he was the Preliminary Hearing Officer and
 23. a participant to the false write up by C. Smith and apart of it.
 24. He knowing it still proceeded the Write up, preliminary hearing, and
 25. Disciplinary Report to have Plaintiff sanctioned to: 12 years in D/S.
 26. NO Store, NO visits Contacted, NO Appliances, loss of yard privileges on a
 27. minimum yard and moved to a max yard locked down 24/7, Loss of law library
 28. access on yard, Loss of library. -5-

STATEMENT OF FACTS IN SUPPORT I

1. Loss of yard 3 times a weeks big yard, Board Room, Gym, Choir practice
 2. Church, Coffeeshop privileges, No restraints on hands and legs, Tear time
 3. outside cell, Showers every day, packages, and other amenities and
 4. privileges by medium yard standards and GP Prisoners alike and by him
 5. violating my 8th and 14th Amendment rights and Consipring and participating
 6. with all Defendants to convict me of a false Disciplinary by C Smith
 7. and sanctions did in fact violate my 8th and 14th Amend to USA.
 8. There fore Plaintiff shows good cause why me Hill should be added
 9. as a defendant to plaintiffs §1983 Civil Rights Complaint Pursuant to
 10. 42 USC §1983. He: Defendant MR JOHN HILL resides at NNCC Prison, P.O Box 2000
 11. Carson City, NV 89701-2000 and is employed as Correctional Senior Officer for
 12. (NCC) NVCC. This defendant is sued in his individual and official capacity
 13. Capacity. The Defendant under Color of law: Worked as a Senior Correctional
 14. Officer and participated in the 3-28-15 Incident which resulted into a
 15. Disciplinary Report by C Smith and he participated and sat in as the
 16. Preliminary Hearing Officer 4-4-15 to punish Plaintiff at (NNCC) for (NCC).
 17. This was a Hostile and atypical situation compared to O/S to 6P (Relief same as Branon)
 18. Plaintiff has also found newly discovered evidence of Mr. Robertson to add
 19. She was a participant of the 3-28-15 Incident from start to finish
 20. and then she sat in and was the Warden/Designee for plaintiffs
 21. Administrative Segregation Notice of Classification Hearing. See; Case #
 22. 3:15-cv-122313-MMD-VAC DEFENDANTS OPPOSITION TO PLAINTIFFS
 23. "MOTION SEEKING PERMISSION TO RECEIVED EMERGENCY INJUNCTIVE RELIEF
 24. FOR NECK INJURY BY DEFENDANT'S AND ADD DEFENDANT'S FOR NON-MEDICAL
 25. TREATMENT" dated on the 6th day of April, 2016. EXHIBIT B Page 000. She
 26. signed it.
 27. And last newly discovered evidence Defendant Branon, Branon, Cox all on
 28. a Nevada Dept. of Corrections

STATEMENT OF FACTS TO SUPPORT [REDACTED]

1. Northern Nevada Correctional Center, Disciplinary Sanction Notification Form CP-707
 2. States the Following:

3. GREG COX

4. DIRECTOR

5. Inmate: Mizzone, Joseph

6. Date 5-1-15

7. Inmate Pled Guilty Not guilty

8. NDOC # 685-19

9. Housing 7B-62A

OEC # 390034

10. It has been found guilty of violation of the Code of Penal Discipline and has received the following sanctions:

11. Loss of Visiting

12. All Visits

From: _____ To: _____

13. All Contact Visits

From: _____ To: _____

14. Visits with _____

From: _____ To: _____

15. Loss of Canteen/Store

From: _____ To: _____

16. Loss of Phone

From: _____ To: _____

17. Loss of Yard Privilege

From: _____ To: _____

18. Loss of electrical appliances _____ Days ASAP. Loss of Gym Privileges _____ Days ASAP.

19. EXTRA DUTY

YLC _____ hrs and/or Unit _____ hrs.

20. Restitution

(\$\$ TBD)

21. Property loss/forfeiture:

Return (E/m & Date): _____

22. Sent out _____

Dispose _____

23. Institutional transfer:

Recommended Institution: _____

24. STAT referral

A B C

25. Panel Board / Attorney General referral _____ PB _____ AG (check if applicable)

26. Other (specify) 24 mos OS

27. Service / Hearing Officer Lt. Brannon

28. Above if the Court looks Mr. Brannon "only" sanctioned plaintiff (\$\$ TBD) resolution, Stat A referral and 24 months Disciplinary Sanctions. He didn't nor Director Cox or Warden Baca.

STATEMENT OF FACTS IN SUPPORT I

allow "any" sanctions or make "any" extra due process sanctions per OP 707: Loss of Visiting Contact, Loss of Canteen/Store, Loss of Phone, Loss of Yard privileges, Loss of electrical appliances, Loss of Gym, Loss of EXTRA Duty, Property loss/forfeiture, Institutional Transfer, Parole Board / Attorney General referral, on this Form part of the Disciplinary Board Process. Its on the Defendants motion as said in MEZZONI 313: DEF EXIT-B-001 of that motion. Also on that motion shows MEZZONI 313: DEF EXIT-B-004, STATE OF NEVADA DEPARTMENT OF CORRECTIONS, DISCIPLINARY FORM III SUMMARY OF DISCIPLINARY HEARING, Results of Disciplinary Hearing DS 24 months 05/01/2015 to 05/01/2017, RESTUTION 05/01/2015 All RE~~S~~ Your account will be frozen until the amount is determined and posted, STAT REF 05/01/2015 Recommended Category A. No where does it say or is it on hope any of the sanctions above to be took with out due process to plaintiff. Plaintiff should be allowed all those sanctions back and damage awards for the time with out them, he proves it under this new amended evidence as of April 6, 2016. And it does show Defendants Director Cox and Warden Boca do have a say and part of the Disciplinary processes and sanctions to inmates under OP 707. No~~c~~. It is a Violation of the 14th Amendment Due Process clause and is a liberty interest. Relief same as the other defendant Brannon.

II. CONCLUSION

WHEREFORE Plaintiff Respectfully shows good cause why he should be allowed to add John Hill Preliminary Hearing Officer to his 51983 and shows why his sanctions should be lifted and shows why Warden Boca and Director Cox should be allowed to proceed under the 1st Amended Complaint because of newly Discovered evidence as of April 6, 2016. And Plaintiff does ask for all to be granted. EXC 60(b).

RESPECTFULLY SUBMITTED
this 14th day of April 2016

BY: Joseph Meyer #68549
Joseph Meyer #68549

III

AFFIDAVITS OF JOSEPH MIZZONI #68549 IN PROSE

1 STATE OF NEVADA)

2 SS

3 CLARK County)

4

5 (1) Plaintiff sworn in support of the Motion duly and says;

6

7 (2) Plaintiff in PRO-SE Joseph Mizzoni #68549 in Support of this
8 affidavit here for a "MOTION SEEKING PERMISSION TO ADDRESS
9 PLAINTIFFS FIRST AMENDMENT COMPLAINT UNDER "NEW DISCOVERY"
10 EVIDENCE" AND ADD DEFENDANT NOC OFFICER JOHN HILL SENIOR CIO
11 AND 3-28-15 PRELIMINARY HEARING OFFICER" on his § 1983 IN
12 THE UNITED STATES DISTRICT COURT DISTRICT OF NEVADA ~~AND~~ AND
13 does so in a truthful manner under 28 USC § 1746 and NRS LAWS
14 of perjury and penalty.

15

16 RESPECTFULLY SUBMITTED

17 this 14th day of April 2016

18

19 BY: Joseph Mizzoni

20 JOSEPH MIZZONI

21 # 68549

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IV.

CERTIFICATE OF SERVICE BY U.S. MAIL

I, Joseph Mizzone #68549, hereby certify pursuant to 28 USC §1746 that on this 14 day of April 2016 I mailed a true copy of the foregoing "MOTION SEEKING PERMISSION TO ADDRESS PLAINTIFFS FIRST AMENDED COMPLAINT UNDER "NEW DISCOURSE" EVIDENCE" AND ADD DEFENDANT NEV. OFFICER JOHN HILL-SENIOR C/D AND 3-28-15 PRELIMINARY HEARING DEFICIES"

and by giving it to a prison guard at High Desert State Prison (Bassi Slip # 1703458) sealed and postage pre-paid, and addressed to:

(1) CLERK, U.S. DISTRICT COURT
DISTRICT OF NEVADA
400 S. Virginia Street, Room #301
Reno, NEVADA, 89501

(2) OFFICE OF ATTORNEY GEN, NEV.
100 CARSON STREET
CARSON CITY, NV. 89701-4717

(3) Address of Plaintiff
Joseph Mizzone #68549
High Desert State Prison
Po Box 650
Indian Springs, NV. 89020

RESPECTFULLY SUBMITTED
this 14th day of April 2016

BY: Joseph Mizzone
Joseph Mizzone
#68549